

REMARKS***Claim Amendments***

Claims 1, 17, 36, 37 and 40 remain in this application.

Claims 1 and 36 have been amended to use the expression “consisting only of” rather than “comprising” when defining the elements of the plant support.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected claims 1, 17 and 20 as anticipated by US patent 2,716,938 to Smith.

Claim 20 has been cancelled without prejudice.

As noted above, claim 1 has been amended to limit the support to the features defined in the claim. The food basket supporting element of Smith consists of elements other than those defined in the amended main claims of the application, i.e. the wire mesh framework extending between elements 27, 28, 31 and the cross-piece near 30 (see Column 3, lines 52 to 61 of Smith). There is no suggestion in Smith that this framework could be omitted, except that the entire basket supporting element 27 “could be made of sheet metal with a number of circulatory openings in the foot portion thereof” (Column 3, lines 56 to 58). If this substitution were made, then clearly the element 27 would be significantly different from the plant support as defined in the amended claims.

It is therefore believed that amended claim 1 distinguishes from Smith.

Claim 17 is dependent on claim 1 and therefore distinguishes for the same reason.

Claim Rejections – 35 U.S.C. § 102

The Examiner rejected claims 1, 17, 20, 36, 37 and 40 as being anticipated by JP 03098515 A to Fujita.

Claim 20 has been cancelled without prejudice.

It is believed that the remaining claims, as amended, distinguish from Fujita for the same reason as they distinguish from Smith. The claims require a single loop of stiff linear material and Fujita does not show this. Page 6, lines 3 to 5 of the translation provided by the Examiner states:

“As is evident from the drawing, multiple wiry members 2 are formed into a screen with a wide space between each of the member, ...”

Figs. 3(a) and 3(b) of Fujita also relate to a modified version of Fig. 1, and Fig. 4 discloses the use of a mesh to fill within the wire-like framework and thus resembles the basket supporting element of Smith discussed above.

There is no disclosure in Fujita that a support could be produced from just two uprights forming part of a single endless loop. Page 5 of the translation at lines 4 to 7, states:

As to the shape of the supporting body, it is not any different from the prior art supporting body except that the bottom section is bent into an L shape. Therefore, it can be one single metal bar, a sheet, or a shape made by arranging multiple metal bars.”

There is thus no reference to the use of a single loop of material of the kind required in the amended claims.

For these reasons, it is believed that the amended claims distinguish from Fujita.

Claim Assessment – 35 U.S.C. § 103

While the Examiner did not specifically reject the main claims for obviousness over Smith or Fujita, Applicant believes that the amended main claims distinguish patentably from these references.

Firstly, Smith relates to an entirely different art, i.e. deep fat frying apparatus. There is no suggestion that the basket support 27 of Smith could be used as a plant support. Furthermore, plants would not survive if planted in deep fat frying apparatus used according to Smith.

Secondly, Fujita is exclusively concerned with the use of multiple support rods that become entangled by leaves and ivy “looking like a sheet or wall (Fig. 2 b)” (Page 6, line 14 of the English translation). The present invention, consisting of only two uprights, would not produce a sheet- or wall-like effect.

There is no suggestion in Fujita that a support could be produced from just two uprights. Page 5 of the translation at lines 4 to 7, states:

As to the shape of the supporting body, it is not any different from the prior art supporting body except that the bottom section is bent into an L shape. Therefore, it

can be one single metal bar, a sheet, or a shape made by arranging multiple metal bars.”

It is difficult to see how the device of Fujita could be made of a single metal bar and provide the required support. The illustrated embodiments employ multiple uprights. The smallest number shown in Fujita is three uprights (Fig. 4) and then this is shown in conjunction with a mesh filling the voids between the uprights. It is not at all obvious from Fujita that the plant support would work in the manner disclosed by Fujita if made with just two uprights formed into a loop. The support is intended to sit securely in plant pot in the shape of a rectangular parallelepiped (Page 6 of the translation, line 10) and thus requires a significant sideways extent, thereby suggesting the use of at least three uprights. There is no suggestion of use with a small circular pot with which the present invention works best.

It is also to be noted that Fujita does not suggest the use of the support as a handle for carrying the plant and pot. Fujita suggests only that the support is used for enabling the plants to grow and to be repotted with ease. There is therefore no suggestion that the upper cross-piece should be gripped by hand to carry the plant or pot, or indeed that it is of a size to be gripped by hand. The embodiment of Fig. 4 clearly could not be gripped by hand because of the intervening mesh. While it is stated on page 8 of the translation, lines 1 and 2, that the support “is not easily pulled out”, this is not the same as saying that the support can be used to lift both the plant and pot without the entire plant being lifted out of the pot, which is the the function of the present invention. Indeed, point 3) on page 8 suggests that the L-shaped horizontal section can be removed together with the soil and leaves at the time of re-potting, which suggests easy separation from the pot that would discourage a person from trying to use the plant support to lift the pot itself. This only requires the supporting body 1 to be shaken by hand (see page 6 of the translation, fifth paragraph).

Claim Rejections – 35 U.S.C. § 103

The Examiner rejected claim 5 as being unpatentable over Fujita in view of US Patent 3,206,649 Barakauskas. Claim 5 has now been cancelled without prejudice.

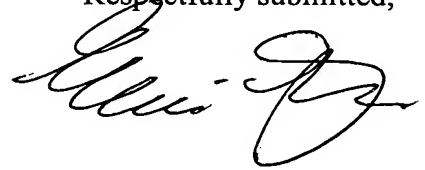
Claim Rejections – 35 U.S.C. § 103

The Examiner rejected claims 18, 19 and 29 as being unpatentable over Fujita in view of European patent EP 0079758 to Madonia.

These claims have now been cancelled without prejudice.

In view of the above amendments and comments, favorable reconsideration and allowance of this application is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Edwin Gale', written in a cursive style.

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